IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION NO : 5411 of 2005

Between:

G.Madhusudhana Rao, S/o.G.Venkatapathi,
R/o.3/153, Beside M.P.P.School, Bakarapuram, Pulivendula, Kapada District.

..... PETITIONER

AND

1 The APSRTC, rep.by its Chairman and Managing Director, Musheerabad, Hyderabad.
2 The Andhra Pradesh State Road Transport Corporation, rep.by its Regional Manager, Kadapa Region, Kadapa Dist.
3 The APSRTC, rep.by its Depot Manager, Pulivendula Depot, Pulivendula, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction or writ particularly one in the nature of writ of mandamus, declaring the action of the Respondents in imposing the punishment of different of two annual increments for a period of two years which shall have effect in future increments is fit and proper to be imposed on the petitioner to meet the both ends of natural justice by the 3rd respondent by its proceedings No.02/62(95)/91-OVL dated 11-12-1991 without conducting any enquiry or issuing any show cause notice is wholly illegal, arbitrary and unjust and contrary to law and also violative of principles of natural justice and violative of Articles, 14, 16 and 21 of the Constitution of India and consequently direct the respondents to pay petitioner increments with effect from 28-05-1991 with arrears and with all consequential benefits and pass such other order or orders as this Honourable court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MS.B.MALLESWARI

Counsel for the Respondent No.: MR.P.VINAYAKA SWAMY

The Court made the following :

ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 18-05-1991 and after receiving the explanation of the petitioner, the final orders were passed on 11-12-1991 imposing the penalty of withholding two annual increments for a period of two years with cumulative effect. The petitioner questioned the said order on the ground that though imposition of punishment of stoppage of two increments with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and the same is liable to be set aside.

The learned Counsel for the petitioner relied on a judgment of the Supreme Court in *Kulwant Singh Gill v. State of Punjab* wherein the Supreme Court held that since the punishment imposed on the petitioner is a major one, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the impugned order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 13 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time and in view of the judgment of the Supreme Court in *Kulwant Singh Gill v. State of Punjab*, (1 supra) I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. However, the petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But he is entitled to get increments on notional calculation from the date of this order to

which he is entitled, as he has been imposed penalty of reduction of two annual increments without cumulative effect.

The writ petition is accordingly disposed of with the above observations.

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17-3-2005

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Copy to:

1 The Chairman and Managing Director, APSRTC, Musheerabad, Hyderabad.
2 The Regional Manager, Andhra Pradesh State Road Transport Corporation, Kadapa Region, Kadapa Dist.
3 The APSRTC, rep.by its Depot Manager, Pulivendula Depot, Pulivendula, Kadapa District.

4 Two CD copies.